

regarding licenses, and it is currently reviewing the rules that govern SMR matters. (6)

Having evaluated the matters brought before us, and in the light of the legal norms and the interests of the parties involved, we declare that TPR will be given the provisional remedy with a bond, because the court understands that the obligation does not come from a legitimate document, as per Rule 56.3 (1) of Civil Procedure. By granting this provisional remedy in accordance with Rule 56.1 of Civil Procedure, we recognize provisionally the existence of the sale/purchase transaction between TPR and the three license corporations via the exercise by TPR of its right to the option The perfecting and requirement will, eventually, be up to the FCC in the exercise of its absolute discretion. In the eventuality that that agency approves the transfer, and as a condition of complying with the Purchase Option Agreement, then the transaction will be binding for all parties and will be retroactive to the date that this order is final and firm.

Consequently, Mistrs. Paul Conrad, Robert Pennock and Ramon Rivera Mulero each in their capacity as directors of Caribbean Spectrum, Inc. Island SMR, Inc. and Island Digital Communications, Inc., respectively, are ordered to subscribe, in ten (10) days all the necessary documents, including those attached to the June 17, 1996 letter (Exh 24) to transfer to TPR the SMR licenses that these license corporations have in Puerto Rico.

(6) Relating that the plaintiff Telecellular, Inc. exists, as a reason to deny granting the provisional remedy as postulated by the three license corporations, it is sufficient to manifest that the evidence presented by them indicates that Telecellular, Inc. was incorporated in Delaware on December 29, 1993, (Exh I and E) but it presently has not credited its existence.

In exchange, TPR will issue 25,000 shares to each of the named corporations and will deposit them with the court until any other ruling is arrived at. We are letting misters Conrad, Pennock and Rivera Mulero know that if they do not subscribe the mentioned documents in the term of time given, it is authorized and without need of any additional order, to instruct the court Marshall of the San Juan Superior Court to subscribe the documents in name of and representing the corporations.

Finally, this order will be subject to TPR presenting a bond for \$1,500,000.00 (7) so as to respond to any damages that may be caused to the plaintiffs.

In San Juan, Puerto Rico, November 8, 1996.

Zadette Bajandas Velez
signature

(7) In other words \$500,000 for each license corporation.

TELECELLULAR

PETITION FOR RECONSIDERATION

EXHIBIT 6

TeleCellular de Puerto Rico, Inc.
Vs
Paul J. Conrad and Caribbean Spectrum, Inc.
Civil Case # KAC 96 1112 (905)

Determination of facts, conclusions of law and judgment.

Determination of facts:

Paragraphs 1 to 24 Summarize the actions taken by Paul J. Conrad and Caribbean Spectrum, Inc.

25. Through a letter sent on June 17, 1996, TPR notified Caribbean Spectrum, Inc. that in accordance with the Purchase Option Agreement it was exercising its option for the transfer to TPR of the mobile radio licenses that Caribbean Spectrum, Inc. has, subject to the approval by the FCC, in exchange of 25,000 shares of TPR. The appropriate FCC forms were attached to the letter. Caribbean Spectrum, Inc. refused to execute the transfer documents.

26. The principal balance of the bridge loan, which was to be paid with the first disbursement of the term loan, is \$879,000 and accrues interest at the default rate of 14.5%, so that, due to the defendants actions, as of April 18, 1997, TPR will have incurred in a debt of \$127,455.00 thereby increasing at the daily rate of \$349.00.

27. Likewise, from April 11, 1996 to April 11, 1997, TPR has incurred in operational expenses amounting to \$867,300.00 without any progress in the project, because of the defendants actions.

28. The delay in project implementation, caused by the defendants, also delays the increase in value, of the project and it is estimated that \$5,313,656.00 is the cost of a one year delay in implementation.

29. Ericsson's refusal to keep in place the agreements for project financing, caused by the defendants actions, has required a restructuring of the project financing at an increased cost of \$12,470,000.00 and will involve the disbursement of an additional \$ 1,600,000.00 in consulting fees and commissions.

Based on the above the court arrives at the following **conclusions of law:**

1. The acts of the defendant, Paul J. Conrad, individually and as director and only stockholder of Caribbean Spectrum, Inc. constitute a tortuous interference in the contractual relations of TPR with Ericsson and GTE and also with the contractual relations of TPR with the license corporations which are lucrative to

TPR. Through these acts and in spite of having been shown the falseness of his allegations in the Petition, the defendants seek to extract from TPR economic benefits and concessions to which they have no right, conscious of the great damage that their Petition and letters have caused and are causing TPR. Because of this they are liable and are legally bound to compensate TPR for the damages caused. See, General Office Products v. AM Capen's Sons, 115 DPR 553 (1984).

2. The sworn allegations of the defendants in the Petition, as also the statements that they instructed their legal counsel to make in letters to Ericsson and GTE on April 11, 1996, are false, and impute acts constituting felonies. The same were made in bad faith, with the knowledge that they were false or with reckless disregard for discovering the truth, in spite of TPR having provided the defendants with abundant information proving the falseness of their imputations. These expressions were also made by Paul J. Conrad, verbally and in writing to the stockholders of the license corporations. As a result, the directors of some of the license corporations also swore to the allegations made in the Petition and joined in the instructions given by the defendants to their attorney that signed the letters to Ericsson and GTE on April 11, 1996, causing great damage for which they must compensate TPR. See, Villanueva v. Hernandez Class, 91 JTS 58, Op. June 25, 1991.

3. The slanderous and libelous sworn allegations presented by the defendants in their Petition and the statements that they instructed their legal counsel to make in letters to Ericsson and GTE on April 11, 1996 constitute a breach of the contract of release of claims executed by Conrad in October of 1995 and so is also that mister Conrad made the same expressions to the stockholders of the license corporations, persuading some of them to subscribe to the false imputations in the Petition and to renege their contractual obligations with TPR. Since the reason to be of the agreements of which the release of claims is part of, has been mocked and destroyed by the defendants, entailed is their resolution and a return of the 125,000 shares of common stock of TPR and the \$25,000.00 that were delivered to the co-defendant Conrad. It is appropriate to, recall that "contracts oblige compliance not only with what has been agreed to, but, also with all the consequences which according to their nature that conform to good faith", Ramírez v Club Cala de Palmas, 123 DPR 339 a la 347 (1989), and that article 1077 of the Civil Code, 31 LPRA 3057 provides that non compliance of essential obligations, such as not initiating lawsuit against TPR, results in the resolution of the contract. See, Ibid.

4. If compliance with the contract is still possible, the same Article 1077 gives the aggrieved party under harm the faculty to request the specific compliance of the obligation. Such is the case in the denial of the co-defendant Caribbean Spectrum, Inc. in complying with its obligations under the Purchase Option Agreement of transferring its mobile radio licenses, subject to the approval by

the FCC. Under these circumstances, TPR has the right to exercise the pertinent actions to conserve it's right to the transfer and reciprocally, Caribbean Spectrum, Inc. must cooperate in completing the license transfer. See, Mercedes Bus Line, Inc. v Rojas, 70 DPR 540 (1949).

In view of the foregoing determination of facts conclusions of law issued is the following:

Judgment

The complaint is granted in all its parts and Paul J. Conrad and Caribbean Spectrum, Inc. are ordered to pay, jointly, to the plaintiff TPR, the total sum of \$20,378,411.00 in compensation for damages that the defendants have caused TPR; the release of claims contract is hereby resolved and it is ordered that Paul J. Conrad return immediately to TPR the 125,000 shares of TPR common stock and the \$25,000 received from TPR in virtue of the contract, and that in ten (10) days Caribbean Spectrum, Inc. must complete the documents necessary for the transfer to TPR of the mobile radio licenses in exchange of which TPR will issue to Caribbean Spectrum, Inc. 25,000 shares of TPR common stock. The Courts Marshall of the Superior Court of San Juan is hereby authorized, without need of any additional order, to complete the documents in name of and on behalf of Caribbean Spectrum, Inc. if mister Paul J. Conrad does not complete them in the next ten (10) days.

Registered and Notified.

San Juan, Puerto Rico, April 11, 1997.

SALIM CHAAR PADIN
Superior Court Judge

TELECELLULAR
PETITION FOR RECONSIDERATION

EXHIBIT 7

Investment Banking Division

PaineWebber Incorporated
1285 Avenue of the Americas
New York, NY 10019
212 713-4197

Thomas D. Dale
Director

PaineWebber

May 7, 1997

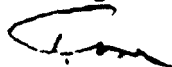
Mr. David Barrett
Chief Financial Officer
TeleCellular de Puerto Rico, Inc.
340 North Main Street
Suite 204
Plymouth, Michigan 48170

Dear Dave:

Thank you for the update today on your progress in developing the TeleCellular de Puerto Rico project. I know that it must be frustrating for you that putting all the pieces together takes so long, but it appears that your efforts over the many months are paying off.

When you have completed your market study and financial model, we would like to discuss your findings and analysis in more detail and continue to explore how PaineWebber may be of assistance to TeleCellular in raising capital and providing financial advisory services.

Best Regards,



Thomas D. Dale

TDD/ae

TELECELLULAR

PETITION FOR RECONSIDERATION

EXHIBIT 8



**Worldwide
Telecommunications Services**

Wireless Systems and Services
77 'A' Street
Needham, MA 02194-2892
(617) 449-2000
Fax: (617) 455-2865

Mr. Roger A. Crane
TeleCellular de Puerto Rico
2314 North Shore
Kingwood, TX 77339

Dear Roger,

GTE would like to express our continued support of your project as you proceed with discussions with the F.C.C. and others by describing our relationship with TeleCellular de Puerto Rico and the extent of our involvement with your Puerto Rico project.

GTE Worldwide Telecommunication Services has been involved with TeleCellular de Puerto Rico, Inc. and their project to deploy a wireless telecommunication system in Puerto Rico since July of 1995. This involvement has led to a contractual relationship between GTE and TeleCellular that calls for GTE to do the R.F. design of the system, acquire the sites, construct the sites and switches, install the equipment, and put the system into operation.

GTE remains committed to the TeleCellular Puerto Rico project and will continue to support TeleCellular in their efforts during the unplanned delay caused by some unfortunate outside interference. GTE has expended a sizable amount of resources in performing the R.F. Engineering required to design the system, in the cell site acquisition process and interfacing with the Puerto Rican governmental agencies required to give regulatory approval for the system construction. We continue to be supportive of TeleCellular de Puerto Rico and the viability of their proposed wireless systems.

Respectfully Submitted

A handwritten signature in black ink, appearing to read "Arthur M. Hadley".

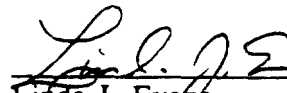
Arthur M. Hadley
Director
Wireless Systems & Services

CERTIFICATE OF SERVICE

I, Linda J. Evans, a secretary in the law office of Lukas, McGowan, Nace & Gutierrez, hereby certify that I have, on this June 20, 1997, caused to be mailed a copy of the foregoing Petition for Reconsideration to the following:

- * Chairman Reed E. Hundt
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554
- * Commissioner James H. Quello
Federal Communications Commission
1919 M Street, N.W., Room 802
Washington, D.C. 20554
- * Commissioner Rachelle B. Chong
Federal Communications Commission
1919 M Street, N.W., Room 844
Washington, D.C. 20554
- * Commissioner Susan Ness
Federal Communications Commission
1919 M Street, N.W., Room 832
Washington, D.C. 20554
- * Dan Phythyon, Acting Chief
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, N.W., Room 5002
Washington, D.C. 20554
- * Rosalind K. Allen, Deputy Chief
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, N.W., Room 5002
Washington, D.C. 20554
- * David Furth, Chief
Commercial Wireless Division
Wireless Telecommunications Bureau
Federal Communications Commission
2100 M Street, N.W., 7th Floor, Room 24
Washington, D.C. 20554

- * Sandra Danner, Deputy Chief
Commercial Wireless Division
Wireless Telecommunications Bureau
Federal Communications Commission
2100 M Street, N.W., 7th Floor
Washington, D.C. 20554
- * Ramona Melson, Chief
Legal Branch
Commercial Wireless Division
Wireless Telecommunications Bureau
Federal Communications Commission
2100 M Street, N.W., 7th Floor
Washington, D.C. 20554
- ** Terry L. Fishel, Chief
Land Mobile Branch
Division of Operations
Wireless Telecommunications Bureau
Federal Communications Commission
1270 Fairfield Road
Gettysburg, PA 17325


Linda J. Evans

- *Via Hand Delivery 6/20/97
- **Via Hand Delivery 6/23/97

E X H I B I T 23

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

In the Matter of)
)
Amendment of part 90 of the)
Commission's Rules to Facilitate)
Future Development of SMR Systems)
in the 800 MHz Frequency band)
)
Implementation of Sections 3 (n) and)
322 of the Communications Act)
Regulatory Treatment of Mobile Services)
)
Implementation of Section 309 (j) of the)
Communications Act--Competitive)
Bidding)

To: Daniel B. Phythyon
Chief, Wireless Telecommunications Bureau

Comments

Telecellular, Inc. ("TCI") and nine of the participating licensees ("Licensees") in the TELECELLULAR joint venture for construction of a wide area SMR system in Puerto Rico, through counsel, hereby file these comments in response to the "Petition For Partial Reconsideration" filed by North Sight Communications, Inc. ("North Sight") and the "Opposition To Petition For Partial Reconsideration" filed by Telecellular de Puerto Rico (TPR) in the above-captioned matter.^{1 2} The Commission should affirm its "Extended Implementation Order" and find that:

¹ Although North Sight served TPR with its Petition, service was not made on TCI or the Licensees, who had filed a waiver request associated with the Docket that was pending at the time of the Petition. Because TPR was served, TCI and the Licensees were also entitled to be served under Section 1.429 (e) of the Rules, 47 C.F.R. (e). Accordingly, it is respectfully requested that the Commission accept this filing pursuant to Section 1.41 of the Rules, 47 C.F.R. 1.41 in order to create a complete record for evaluation in the public interest. Indeed, the pleading cycle in this matter is still open as of this

(1) extended implementation until May 20, 1999 for construction of a wide area SMR system in Puerto Rico extends to the *participating licensees* and not to any particular third party;³ (2) any contract disputes between the licensee and third parties are matters for state and local consideration and are not properly before the Commission in this proceeding; (3) interpretations of corporate law are within the domain of state and local courts and are not properly before the Commission in this proceeding.

At the outset, it should be noted that consistent with the requirements of the Communications Act (See 47 U.S.C § 301, 47 U.S.C. § 310 (d)) and the Commission's prior treatment of "participating licensees" in a Puerto Rico wide-area system (see attachment), it is without question that the Commission's authorization for extended implementation to construct a wide area system goes to the *participating licensees* and *not* to any particular third party. Accordingly, the *licensees* are free to construct a wide-area system in Puerto Rico under the Commission's "Implementation Order." Disputes that may arise out of agreements with third parties are matters to be decided in state and local courts and should not be allowed to cloud the record before the Commission. See *Listeners' Guild, Inc. v. FCC*, 813 F.2d 465, 469 (D.C. Cir. 1987); also see. *Sonderling Broadcasting Co.*, 46 Rad. Reg. 2d (P&F) 889, 894 (1974); *Robert J. Kile* 3 FCC Rcd 1087 (1988). Likewise, the issues raised by North Sight with respect to corporate law matters are issues to be addressed by state and local courts in the first instance and are not appropriately before the

date. Counsel for North Sight has been advised of this filing as was the office of the counsel for TPR, who could not be reached directly.

²The licensees are Caribbean Digital Communications Inc.; Caribbean SMR, Inc.; Caribbean Spectrum, Inc.; Island Communications, Inc.; Island Digital Communications, Inc.; Island SMR, Inc.; Ponce SMR, Inc.; SMR Digital PR; SMR Spectrum.

³ DA 97-2373, released November 12, 1997 ("Extended Implementation Order").

Commission. See eg. North American Broadcasting company, Inc. 15 FCC 2d 979 (Rev. Bd. 1969); *Intercast, Inc.* 43 FCC 2d. 658 (Rev. Bd. 1973).

North Sight challenges the Commission's reasoning in granting extended implementation because it contends it is simply a case of "licensees that are arguing with each other"⁴ and therefore the delay was entirely within the control of the parties. However, because of the litigation brought by TPR, a third party, the Commission was correct in its underlying reasoning that the delay was due, in large part, to the on-going litigation between third parties and *not* to disputes *among* the participating licensee. In sum, North Sight has raised no issue that requires reconsideration of the Commission's decision to allow the licensees until May 20, 1999 to construct a wide area system in Puerto Rico.


⁴North Sight Petition, at 9.

CONCLUSION

In view of the foregoing, the Commission should take action consistent with the views set forth herein.

Respectfully submitted,

Telecellular, Inc.
Caribbean Digital Communications Inc.
Caribbean SMR, Inc.
Caribbean Spectrum, Inc.
Island Communications, Inc.
Island Digital Communications, Inc.
Island SMR, Inc.
Ponce SMR, Inc.
SMR Digital PR
SMR Spectrum

By 
Albert J. Catalano

Dated: January 20, 1998

DAY & CATALANO, PLLC
1000 Connecticut Ave., N.W.
Suite 901
Washington, D.C. 20036
Telephone: (202) 822-9388
Their Counsel

FROM :

PHONE NO. : 282 8228377

Jan. 20 1998 05:34PM P1

CERTIFICATION

On behalf of Telecellular, Inc., the undersigned Director of Telecellular, Inc. hereby certifies under penalty of perjury that the following is true and correct:

1. I have read the attached Comments.
2. All of the information contained in the attached Comments is true and correct to the best of my knowledge, information and belief.

TELECELLULAR, INC.


by: June McNally, Director

EXHIBIT

08/01/1994 20:18 9158567848
08/01/1994 15:48 2623711136
08/01/94 10:20 717 337 1411

SPECTRUM MGMT
RICHARD S. MYERS ESQ
LICENSING POC

PAGE 01
PAGE 02
001/001
574

Federal Communications Commission

1274 Fairchild Road
Gettysburg, PA 17325-7245

In Reply Refer To:
7110-163

Law Offices of Richard S. Myers
1030 15th Street, N.W., Suite 908
Washington, D.C. 20005

Attn: Richard S. Myers

Dear Mr. Myers:

This is in response to your request to toll the one year construction requirement pending consideration of the request for Extended Implementation filed on behalf of the participating licensees in TELECELLULAR which was dated May 24, 1994.

Due to the delay in responding to your request for Extended Implementation, we are hereby granting your request to toll the one year construction requirement. The construction period will be tolled from May 24, 1994 to the date of which a decision is made on the Extended Implementation Request.

I hope this responds fully to your tolling request. Any further questions concerning this request may be directed to Mr. Al Knerr of our Technical Section, at (717) 337-1411 (ext. 227).

Sincerely,

Ronald B. Fubel
Terry L. Fubel
Chief, Land Mobile Branch

Tolling Grant

SEARCHED	INDEXED	7871	8-1-94	EX-1
SERIALIZED	FILED	AL KNERR	PLC	
FBI - WASH DC		717-337-1411		
202-271-1136		717-337-1541		

COMMUNICATIONS LAW GROUP

1030 15TH STREET, N.W., SUITE 808
WASHINGTON, D.C. 20005
(202) 371-8789
TELECOPIER (202) 371-1136

Richard S. Myers
Jay N. Lazarus+
Tania W. Hanna
Kenneth W. Burakyt

+ Admitted to Maryland only
‡ Also admitted to Pennsylvania

James J. Keller*

*Communications engineer
(not lawyer)

July 15, 1996

VIA HAND DELIVERY

Mr. William Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

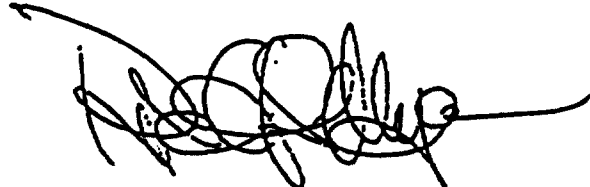
Re: Participating Licensees of TELECELLULAR
Rejustification For Extended Implementation
Authority For A Wide Area 800 MHz System
Serving The Island Of Puerto Rico

Dear Mr. Caton:

On behalf of the participating licensees of TELECELLULAR, there are hereby submitted and original and four (4) copies of their "Rejustification For Extended Implementation Authority" for a wide area 800 MHz system serving the island of Puerto Rico. Also enclosed is a diskette copy of information submitted in Exhibit A of this filing.

Please contact the undersigned if any questions arise concerning this matter.

Very truly yours,

A handwritten signature in black ink, appearing to be 'Richard S. Myers', with a long horizontal line extending to the right.

Richard S. Myers

Enclosures

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re 800 MHz Licenses of)
PARTICIPATING LICENSEES OF) Call Signs: See Exhibit 1
TELECELLULAR)
Request for Extended)
Implementation Period for)
Wide Area SMR System pursuant)
to Section 90.629 of the)
Commission's Rules and Request)
for Tolling of the Applicable)
Construction Deadline Pending)
Consideration of this Request)
for Extended Implementation)

To: Chief, Private Radio Bureau

SECOND AMENDMENT TO REQUEST FOR EXTENDED IMPLEMENTATION PERIOD

The participating licensees of TELECELLULAR hereby file this amendment to its pending Request for Extended Implementation to include three more SMR licenses in the TELECELLULAR wide area network covering Puerto Rico. Accordingly, enclosed is a revised Exhibit 1 which adds the following SMR licenses:

Apex Communication, Inc.
Call Sign: WPDQ861
Frequency: 861-865.33750

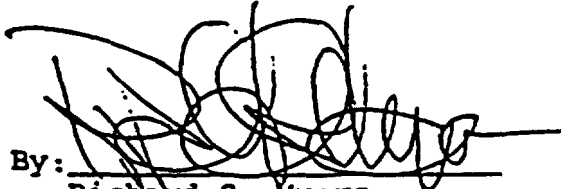
Mayaguez SMR, Inc.
Call Sign: WPDQ879
Frequency: 861-865.78750

Mayaguez SMR, Inc.
Call Sign: WPDQ880
Frequency: 861-865.06250

It is further requested that the period for constructing the above referenced call sign be tolled from the date this amendment is filed to the date the Commission takes action on the underlying Request for Extended Implementation.

Respectfully submitted,

THE PARTICIPATING LICENSEES OF
TELECELLULAR

A handwritten signature in black ink, appearing to be "Richard S. Myers", written over a horizontal line.

By:

Richard S. Myers
Sean P. Beatty
Jay N. Lazrus
Their Attorneys

Law Offices of Richard S. Myers
1030 15th Street, N.W., Suite 908
Washington, D.C. 20005
(202) 371-0789

September 13, 1994

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re 800 MHz Licenses of)

PARTICIPATING LICENSEES OF)
TELECELLULAR)

Call Signs: See Exhibit 1

Request for Extended)
Implementation Period for)
Wide Area SMR System pursuant)
to Section 90.629 of the)
Commission's Rules and Request)
for Tolling of the Applicable)
Construction Deadline Pending)
Consideration of this Request)
for Extended Implementation)

To: Chief, Private Radio Bureau

REQUEST FOR EXTENDED IMPLEMENTATION PERIOD

e.

PARTICIPATING LICENSEES OF
TELECELLULAR

Their Attorneys

Richard S. Myers
Sean P. Beatty

Law Offices of Richard S. Myers
1030 15th Street, N.W., Suite 908
Washington, D.C. 20005
(202) 371-0789

May 24, 1994

CERTIFICATE OF SERVICE

I, Al Catalano, hereby certify that I served the foregoing Comments by causing the same to be sent by first-class U.S. mail, postage prepaid to the following:

Alan S. Tilles, Esq.
Meyer, Faller, Weisman & Rosenberg, P.C.
4400 Jenifer Street, N.W.
Suite 380
Washington, D.C. 20015

Elizabeth R. Sachs, Esq.
Lukas, Nace, Gutierrez & Sachs
1111 19th Street, N.W., 12th Floor
Washington, DC 20036

Dated: January 20, 1998


Albert Catalano